

Notice to Comply	Application No. 10/626,832	Applicant(s) Poynter et al.	
	Examiner Louise Humphrey, Ph.D.	Art Unit 1648	

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.826 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☒ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked-up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: the claims include sequences greater than 4 amino acids that do not have a SEQ ID NO.

Applicant Must Provide:

- ☐ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment specifically directing its entry into the application.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:
For Rules Interpretation, call (703) 308-4216 or (703) 308-2923
For CRF Submission Help, call (703) 308-4212 or 308-2923
PatentIn Software Program Support
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY

Part of Paper No.

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BEST AVAILABLE COPY**RECEIVED
CENTRAL FAX CENTER****AUG 24 2006****Nixon & Vanderhye PC**
ATTORNEY AT LAW11TH FLOOR
901 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22203-1808TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4011***FACSIMILE COVER SHEET***
PLEASE DELIVER IMMEDIATELY!!!!Atty Dkt.: 620-262Date: August 24, 2006To: Examiner Humphrey, L. - Group: 1648Firm: USPTOFacsimile No.: (571) 273-8300From: Mary J. WilsonNumber of Pages (including cover sheet): 9
(IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION,
PLEASE CONTACT US IMMEDIATELY AT (703-816-4000).Tabitha A. Trice
FACSIMILE OPERATOR**CERTIFICATION OF FACSIMILE TRANSMISSION**I hereby certify that this paper and any noted attachments are being facsimile transmitted to the Patent
and Trademark Office on August 24, 2006.Mary J. Wilson
Mary J. Wilson**ATTACHMENT/S: OFFICIAL RESPONSE TO NOTICE TO COMPLY, COPY OF
NOTICE TO COMPLY, CD SUBMISSION REVIEW
RESULTS AND PTO DATE-STAMPED POSTCARD
RECEIPT****MESSAGE:**

In re PATENT APPLICATION OF:

DAVIS POYNTER et al.
Serial No.: 10/626,832
Filed: July 25, 2003
For: VIRAL MARKER**CONFIDENTIALITY NOTE**The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is confidential and/or legally
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In re Patent Application of

Atty 620-262
Dkt.

DAVIS POYNTER et al.

C# M#
TC/A.U. 1648

Serial No. 10/626,832

Examiner: Humphrey, L.

Filed: July 25, 2003

Date: August 24, 2006

Title: VIRAL MARKER

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AUG 24 2006

Mail Stop Sequence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**BEST AVAILABLE COPY**

Sir:

RESPONSE TO NOTICE TO COMPLY

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment previously paid for 20 (at least 20) =	0 minus highest number 0 x \$50.00	\$0.00 (1202)/\$0.00 (2202) \$
Independent claims after amendment previously paid for 3 (at least 3) =	0 minus highest number 0 x \$200.00	\$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add \$360.00 (1203)/\$0.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s)

One Month Extension	\$120.00 (1251)/\$0.00 (2251)
Two Month Extensions	\$450.00 (1252)/\$0.00 (2252)
Three Month Extensions	\$1020.00 (1253)/\$0.00 (2253)
Four Month Extensions	\$1590.00 (1254)/\$0.00 (2254)
Five Month Extensions	\$2160.00 (1255)/\$1080.00 (2255) \$
	\$130.00 (1814)/ \$0.00 (2814) \$

Terminal disclaimer enclosed, add

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule-56 Information Disclosure Statement Filing Fee

\$180.00 (1806) \$ 0.00

Assignment Recording Fee

\$40.00 (8021) \$ 0.00

Other:

\$ 0.00

TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor
Arlington, Virginia 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
MJW:tatNIXON & VANDERHYE P.C.
By Atty: Mary J. Wilson, Reg. No. 32,955Signature: Mary J. Wilson

In re Patent Application of

Atty 620-262
Dkt.

C# M#

DAVIS POYNTER et al.

TC/A.U. 1648

Serial No. 10/626,832

Examiner: Humphrey, L.

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Independent claims after amendment 0 minus highest number
previously paid for 3 (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add
Petition is hereby made to extend the current due date so as to cover the filing date of this \$360.00 (1203)/\$0.00 (2203) \$

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Assignment Recording Fee

\$40.00 (8021) \$ 0.00

Other:

\$ 0.00

TOTAL FEE ENCLOSED \$ 0.00

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Arlington, Virginia 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
MJW:tatNIXON & VANDERHYE P.C.
By Atty: Mary J. Wilson, Reg. No. 32,955Signature: Mary J. Wilson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DAVIS POYNTER et al.

Atty. Ref.: 620-262; Confirmation No. 9237

Appl. No. 10/626,832

TC/A.U. 1648

Filed: July 25, 2003

Examiner: Humphrey, L.

For: VIRAL MARKER

* * * * *

August 24, 2006

Mail Stop Sequence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO NOTICE TO COMPLY

This is in response to the Notice to Comply dated July 24, 2006, in the above matter. The Notice indicates that Applicants must provide "An initial or substitute paper copy of the 'Sequence Listing', as well as an amendment specifically directing its entry into the application" and "A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter ...".

It is respectfully submitted that, on June 7, 2004, Applicants submitted all that the relevant Rules require (a copy of the postcard receipt evidencing the June 7, 2004 submission is attached). Specifically, Applicants submitted:

i) a Preliminary Amendment directing entry, on page 1 of the application, of the following statement:

DAVIS POYNTER et al.

Appl. No. 10/626,832.

August 24, 2006

"The contents of the attached CD-R compact discs are incorporated herein by reference in their entirety. The attached discs contains identical copies of a file '620-262.TXT, which were created on the discs on May 24, 2004, and are each 615,372 KB."

and, included under "Remarks", was the statement

"Entry of the Sequence Listing does not raise the issue of new matter as the sequence information contained therein is presented in the application as originally filed. The computer readable copy of the Sequence Listing submitted herewith is believed to be the same as the attached compact disc copy of that Listing";

- ii) a Transmittal Letter pursuant to Rule 53; and
- iii) three identical CD-R discs containing the Sequence Listing in IBM PC machine format (labeled as indicated in (i) above).

37 CFR 1.821(c) specifically states that:

"Patent applications which contain disclosures of nucleotide and/or amino acid sequences must contain, as a separate part of the disclosure, a paper or compact disc copy (see §1.52(e)) disclosing the nucleotide and/or amino acid sequences and associated information using the symbols and format in accordance with the requirements of §§1.822 and 1.823. This paper or compact disc copy is referred to elsewhere in this subpart as the 'Sequence Listing'."

(Underlining added.)

37 CFR 1.52(e) specifically states that:

"(1) The following documents may be submitted to the Office on a compact disc in compliance with this paragraph:

...
(ii) A 'Sequence Listing' (submitted under §1.821(c)) ..."

In the Response filed February 27, 2006, Applicants directed the Examiner's attention to the above-referenced June 7, 2004 submission and requested that the Examiner point out any deficiency in the June 7, 2004 filings.

In the Response filed May 4, 2006, Applicants again directed the Examiner's attention to the June 7, 2004 submission, provided the Examiner with the postcard receipt evidencing the filing and provided the Examiner with a copy of the PTO "CD Submission Review Results" relating to the June 7, 2004 submission.

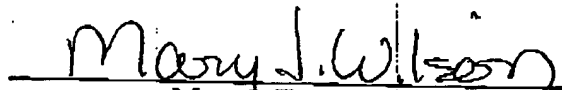
Upon receipt of the July 24, 2006 Notice to Comply, the undersigned contacted the Examiner by phone seeking clarification as to the basis for the issuance of the Notice. The Examiner advised the undersigned that a paper copy of the Sequence Listing was required. It will be clear from a review of the above-cited Rules that the requirement is for a paper copy or a compact disc copy. Applicants provided the latter on June 7, 2004, and it is believed that that submission was in full accordance with the Rules.

The Examiner is respectfully requested to issue a new Notice, re-setting the due date, which points with specificity to any perceived deficiency in Applicants' June 7, 2004 submission so that Applicants will be in a position to respond, or acknowledge that this application is in compliance with the Sequence Listing Rules.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



Mary J. Wilson
Reg. No. 32,955

MJW:tat
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

Serial No.: 10/626,832

Applicant: DAVIS POYNTER et al

Title: VIRAL MARKER

Atty: MNW

Date: 6-7-2004

Client: NEWBORN

Ref: 1020-262

☒ Amendment / PRELIMINARY
☐ Pages Specification
☐ Claims
☐ Sheets Drawings: Formal
☐ Informal

☒ Declaration (2 Pages)
☐ Assignment

☐ Priority Document
☐ Base Issue Fee Transmittal

☒ Fee (Check) \$1820/1832

Other: Filing Completion Coversheet, NTFMP,
Rule 52 Transmittal Letter and
3 CD-R discs containing Sequence Listing



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